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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,945	09/22/2000	Motoichi Tamura	39303.20200.00	9628

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MORRISON & FOERSTER, LLP  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024

EXAMINER
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OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2655

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DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/667,945

Applicant(s)

TAMURA, MOTOICHI

Examiner

Michael N. Opsasnick

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2000.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mohrbacher (5602356).

As per claims 1,9-16, Mohrbacher (5602356) teaches a waveform producing method (as music synthesizer – col. 5 lines 7-26), apparatus, and machine readable storage medium comprising the steps of:

“receiving style of rendition information.....used in a musical performance....produced” as recording a rendition of a piece (col. 1 lines 30-45, col. 2 line 48 – col. 3 line 10) for future recall in reproducing a note, or series of notes of the rendition (col. 42 lines 32-65 + col. 1 lines 30-45 refer to a studio musician’s rendition, which is a style of rendition )

“generating a packet stream.....the packet stream including packets of information for producing and/or controlling a waveform” as generating notes based upon the recorded rendition (col. 42 lines 50-65) wherein the music generated is sampled and stored (col. 47 lines

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22-35) in the form of packetized information (referring back to the synthesizer production technique, col. 34 lines 18-38; col. 39 lines 9-23);

“producing a waveform.....step of generating” as synthesized music output (Fig. 3, subblock 114)

As per claims 2,12-15, Mohrbacher (5602356) teaches time-based aligned packets (col. 39 lines 15-22)

As per claims 3,12-15 Mohrbacher (5602356) teaches time-based aligned packets with time adjustment (col. 39, lines 38-54, more notably the resync process)

As per claim 4, Mohrbacher (5602356) teaches both forward and backward time alignment (col. 39 line 55 – col. 40 line 7)

As per claim 5, Mohrbacher (5602356) teaches random time/tempo adjustment (col. 40 lines 18-40 -- note, the user has the control to change the tempo to anything that is desired)

As per claims 6-8, Mohrbacher (5602356) teaches pitch, amplitude, and shape control of the waveform (col. 46 lines 14-35, col. 47 lines 35-65; col. 48 lines 22-63).

As per claims 12-15, Mohrbacher (5602356) teaches arranging vector data for producing a waveform (as rearranging the sampled and stored data -- col. 47 lines 22-35; wherein the

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stored music data – col. 47 lines 45-65 -- is in vector form -- the music data is amplitude, and marked by time value ps\_tn, hence in vector form; wherein the finished data is used to produce the output waveform, or output music (col. 47 lines 29-35; col. 47 lines 20-23).

Claims 10-15 are similar in scope to previous claims and therefore have been rejected in view of Mohrbacher (5602356) under the same rationale as presented and noted above.

### ***Response to Arguments***

3. Applicant's arguments filed/received on 2/10/2004 have been fully considered but they are not persuasive. As per applicant's arguments that the prior art does not teach an identifier of a rendition, examiner argues that the prior art teaches the notation of a studio musician's rendition, and that a studio musician's rendition is a style. As per applicant's arguments on the middle of page 9 of the response, examiner argues that the applicant does not contrast/compare the rest of the recitations to the prior art as provided by the examiner. With respect to the arguments presented on the bottom of page 9 of the response, examiner Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The applicant recitates the claim language, and the applied prior art, but does not compare/contrast the two sections.

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**Conclusion**

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

mno  
4/23/2004



**DORIS H. TO**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**